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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,388	02/04/2004	Benjamin H. Watts	APV30996A	1906

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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT PAPER NUMBER

3618

DATE MAILED: 09/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/770,388

Applicant(s)

WATTS, BENJAMIN H. 

Examiner

Frank Vanaman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-25 and 27-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-25 and 27-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/4/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

### **Status of Application**

1. Applicant's preliminary amendment, filed Feb. 2004 has been entered in the application. Claims 1-4, 6-25 and 27-39 are pending.

### **Information Disclosure Statement**

2. Certain foreign and non-patent references cited in the IDS filed with the instant application have been indicated as having not been considered due to the temporary unavailability of the parent application in which hard copies of these references reside. At such time as the parent application becomes available, the foreign and non-patent literature references cited on applicant's IDS will be considered.

### **Specification**

3. The disclosure is objected to because of the following informalities: the specification does not include a reference to the parent application. Such reference should be made at the beginning of the specification, under "Cross-Reference to Related Applications".

Appropriate correction is required.

### **Claim Rejections - 35 USC § 112**

4. Claims 27-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In amended claim 27, line 13, "the hand brake" lacks a clear antecedent basis—see claim 27, line 12, which recites only "a respective brake".

### **Claim Rejections - 35 USC § 103**

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 2, 4, 6, 7, 12-15, 19-23, 32-36 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell (US 4,789,180) in view of Smith (US 6,050,577). Bell teaches a cart having a platform (20) which defines an flat outer top surface (along

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30, 32, 34, 36, 38) above which nothing else projects; or which may be defined as including a concave section (longitudinally defined by higher ends 36, 38 and lower central portions 42; laterally defined by higher sides 32, 34 and lower central portions 42), including no more than one longitudinal handle (68) having proximal and distal ends, the distal end including a transverse bar (28) with handle ends (78) which protrude outwardly on lateral sides beyond the distal end of the longitudinal bar, and which connect to the transverse bar at respective first and second ends which are further distal from the distal end of the longitudinal bar, as best understood; plural wheel supports (61) which extend downwardly from the cart (e.g., from 56); respective wheels (24, 26) located at least partially below the platform, and mounted for rotation on the wheel supports; the longitudinal handle mounted so as to be usable in a position wherein the handle axis and a longitudinal axis of the cart are parallel (through the pivotal connection at 102/86); the cart further having a kick stand (70) positionable in a retracted position (figure 2) parallel to the handle and a deployed position (solid in figure 3, phantom in figure 2). The reference to Bell fails to teach the handle as being curved and of a U-shape, including a threaded aperture. Smith teaches a transverse handle (106, 108, 110) connected to a longitudinal handle and extending upwardly above the longitudinal handle (106, figure 8); having a gently curved U-shape and being of similar disposition to a commonly known bicycle handle as best understood; being connected to the longitudinal handle portion (92) with an element (96, 98) having a threaded aperture therein. It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the transverse handle taught by Bell with the curved handle arrangement taught by Smith, for the purpose of providing a better gripping area, and a more ergonomic gripping stance (due to the curvature of the handle arrangement).

As regards claims 20-22, 32 and 33, while the reference to Bell as modified by Smith teaches a U-shaped handle which protrudes upwardly from a longitudinal handle element, the references fail to teach a particular height dimension and width dimension. In that it is well known to adjust the various dimensions of objects to be engaged by a user for ergonomic purposes, it would have been obvious to one of ordinary skill in the art at the time of the invention to adjust the height of the protruding handle portion

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taught by the modifying reference to Smith to extend from 5-12 or 6-8 inches above a platform upper surface and to provide the handle width so as to be in the range of 12-30 inches so as to allow ease of grasping by a user manipulating the cart.

As regards claim 23, the reference to Bell as modified by Smith fails to teach the specific platform length and width and height of the lower platform surface above a lower wheel surface. Again, as noted above, in that it is well known to adjust the various dimensions of objects to be engaged by a user for ergonomic purposes, it would have been obvious to one of ordinary skill in the art at the time of the invention to adjust the height of the platform above a lower most wheel surface to between 12 and 30 inches for the purpose of allowing ease of loading; further it would have been obvious to one of ordinary skill in the art at the time of the invention to adjust the platform size itself in order to accommodate a particular envisioned load size.

7. Claims 9, 10, 11, 16, 17, 18, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell in view of Smith and Bartlett (US 5,443,131). The references to Bell and Smith are discussed above and fail to teach the further provision of a locking hand brake including a handle and cables. Bartlett teaches a brake device having a handle (18) provided on a lower surface of a longitudinally extending frame member (12, figure 3) and which may be locked (42, 46, 47, 48, 49) which connects to a cable arrangement which may be used to engage brake elements (figure 6) to brake a vehicle. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the locking brake as taught by Bartlett on a lower handle surface of the cart of Bell as modified by Smith, for the purpose of allowing the cart to be slowed if needed, and further to be locked in a stopped position to prevent undesired motion whilst unattended.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bell in view of Smith, Bartlett and Humlong (US 3,652,105). The references to Bell, Smith and Bartlett, as applicable to claim 3, are discussed above and fail to teach the provision of a kickstand which includes a flattened bracket, a stop, a spring and a washer connected between the spring and bracket. Humlong teaches a kickstand (50) for a vehicle, including a bracket (20) having flattened portions (see proximate 64, 22) with a spring

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(58) and washer (60) between the bracket and spring. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the kickstand on the cart taught by Bell and modified by Smith and Bartlett

9. Claims 8, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell in view of Smith and Dickmann (US 6,283,496). The references to Bell and Smith are discussed in detail above and fail to teach an arrangement wherein the wheels are located entirely below the lower platform surface, or are positioned so as to be located such that no cart elements extend between the wheel supports to a height of either 50% or 75% of the height of the platform lower surface above the ground, with the wheel supports comprising U-shaped forks. Dickmann teaches a wheel mount system for a cart including wheels (50, 52) each being mounted in wheel supports (44, 48, 64; 44, 46, 62) which include U-shaped forks, and wherein no cart elements other than the wheel supports elements are positioned between the supports for the entire distance from the ground to the lower surface of the cart.

10. Claims 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell in view of Bartlett. The reference to Bell is discussed above and fails to teach the further provision of a locking hand brake including a handle, cables and a Y-arrangement for the cables. Bartlett teaches a brake device having a handle (18) provided on a lower surface of a longitudinally extending frame member (12, figure 3) and which may be locked (42, 46, 47, 48, 49) which connects to a cable arrangement (10, 24, 26, 28, 29) including a 'Y' portion and which may be used to engage brake elements (figure 6) to brake a vehicle. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the locking brake as taught by Bartlett on a lower handle surface of the cart of Bell, for the purpose of allowing the cart to be slowed if needed, and further to be locked in a stopped position to prevent undesired motion whilst unattended.

11. Claims 31 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell in view of Smith and Thompson (US 5,328,192). The references to Bell and Smith are discussed above and fail to teach the upper platform surface being flat with transverse solid bars, forming a rigid upper surface. Thompson teaches a cart having a

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frame (16) with a plurality of transverse bars (22) which form a rigid upper surface. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cart of Bell as modified by Smith with the rigid upper-surface-forming bar arrangement taught by Thompson for the purpose of accommodating loads which require more support in a central region. As regards the provision of the bars as being solid, the use of (solid) rod stock rather than (hollow) tube stock is old and well known and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the transverse rods from a rod stock for the purpose of adjusting the load characteristics from those associated with the use of tubular stock, to adapt the carrying capacity of the cart to a desired value.

### Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Davis (US 6,575,483), Koch (US 6,585,285), AB Sängfabriken (SE 193,883), and Olsson (CA 1033381) teach carriers of pertinence.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 703-308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is 703-308-1113.

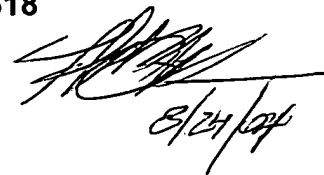
As of May 1, 2003, any response to this action should be mailed to:

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Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450,

Or faxed to one of the following fax servers:

Regular Communications/Amendments: 703-872-9326  
After Final Amendments: 703-872-9327  
Customer Service Communications: 703-872-9325

**F. VANAMAN**  
**Primary Examiner**  
**Art Unit 3618**



8/24/04